

**Morgan Memorial Goodwill Industries, Inc.**

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**TO:** G. John Heyer  
Janet Yandik  
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**FROM:** Joanne Hilferty

**DATE:** January 10, 2005

**RE:** Attached letter

**PAGES:** 3 (including cover sheet)

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Will mail hard copy of the original letter as well.

Please let me know if you have any questions.



Not charity,  
but a chance

January 5, 2005

**President's Committee for Purchase from People  
Who Are Blind or Severely Disabled**

Attention: G. John Heyer  
1421 Jefferson Davis Highway  
Jefferson Plaza 2, Suite 10800  
Arlington, VA, 22202-3259

Dear Committee Members:

On behalf Morgan Memorial Goodwill Industries, I am writing to express our opposition to the proposed notice of rulemaking [Docket No. 2004-01-01] from the President's Committee for Purchase From People Who Are Blind or Severely Disabled. The proposed rulemaking on governance standards for central nonprofit agencies and nonprofit agencies participating in the Javits-Wagner-O'Day (JWOD) Program exceeds the scope of the Committee's authority and Congressional mandate.

Morgan Memorial Goodwill Industries has been providing job training and career services to individuals with disabilities and other barriers to self-sufficiency for more than a century. Last year, we served nearly 6,500 individuals. Currently, 43 Goodwill trainees with disabilities provide cleaning and building maintenance services to federal buildings through a JWOD program. These individuals are graduates of our Building Maintenance training program, which has been enormously successful in helping people who face significant challenges in finding employment gain job skills, paid work experience and a develop career ladders. A number of individuals who have gone through this program are now in supervisory roles at both of these facilities.

As a participating JWOD agency, Morgan Memorial Goodwill Industries would hope that the Committee would comply fully with the Congressional intent to provide employment and training opportunities for persons who are blind or have other severe disabilities and not delve into areas for which it lacks both the Congressional and statutory authority necessary to promulgate governance and other standards. The proposed rules will impact the entire community of participating nonprofit agencies, despite the Committee's own comment that the overwhelming majority of JWOD-affiliated central nonprofits agencies and nonprofit agencies operate in an ethical and accountable manner.

The authorizing statute for the JWOD program clearly delineates the powers and responsibilities of the Committee (41 CFR 51-2.2, 41 U.S.C. § 46). These powers and responsibilities do not extend to governance standards or executive compensation. Both Congress and the Internal Revenue Service (IRS) have

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John G. Heyer  
January 5, 2005  
Page Two

jurisdiction over these areas. The Committee is mandated with determining which commodities and services should be on the Committee's procurement list and fair market prices, and informing federal agencies about the JWOD program.

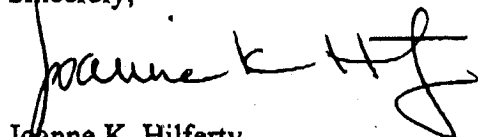
The statutory authority and regulations, as well as the legislative history, in addition to the applicable federal case law, do not support the Committee's actions. Furthermore, we have concerns understanding the rationale for the Committee to purport to assume regulatory authority over the governance standards for nonprofit, tax-exempt 501 (c) (3) organizations, because numerous federal entities exist to regulate these organizations.

The proposed rules also raise significant Constitutional concerns. Both nonprofit and for-profit agencies regularly compete for government contracts. Nonprofits compete against companies as large as Lockheed Martin and Boeing. We have not found other circumstances where the ability to participate in government contracting is contingent upon a certain corporate governance structure of the participating vendor. Similarly, there is not an inquiry into the executive compensation level of the participating agency versus that of the highest paid SES, career Federal government employee for vendors to be permitted to compete for government contracting opportunities. If the proposed rules were to become final, however, only nonprofit agencies desiring to participate in the JWOD program would be subject to this unique level of regulation. There is no rationale for such disparate treatment of nonprofit organizations desiring to participate in the JWOD program and no precedent for establishing a cap on executive compensation or imposing governance rules as a prerequisite to participation in government contracting.

Furthermore, if all nonprofit organizations were restricted to the managerial compensation levels specified in the proposed rules, many would be unable to attract and retain the most experienced and talented personnel, particularly in high-cost-of-living metropolitan areas. The resulting loss of talent would, over years, reduce employment and training opportunities for citizens with disabilities. In addition, for many larger organizations like Morgan Memorial Goodwill Industries, only a small portion of the overall budget is a result of JWOD-affiliated work.

We believe that the proposed rules do not advance the Congressional intent of the enacting JWOD legislation, and would, if adopted, diminish the program's ability to increase employment opportunities for the blind and disabled. We respectfully request that the Committee withdraw these rules.

Sincerely,



Joanne K. Hilferty  
President & CEO